

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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FASHION GROUP, LLC AND FUNGYUN, INC.,

Plaintiffs,

– v. –

JOHNNY’S SIGNATURE, INC., JOHNNY’S  
SIGNATURE INT’L, INC., DEEPAK SAJNANI,  
BILCO IMPORT & EXPORT, INC., BILCO  
INDUSTRIES, INC., BURTON CHEN (a/k/a Billy  
Chen a/k/a William Chen, a/k/a Zhiquan Chen),  
JERRY LAU and DOUBLE TOP  
INTERNATIONAL, INC.,

Defendants.  
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Case No.: 1:18-cv-02959 (PGG)

**AFFIRMATION OF JONATHAN ROFFE  
IN OPPOSITION OF PLAINTIFFS  
MOTION FOR LEAVE TO AMEND**

**JONATHAN ROFFE**, an attorney admitted to practice in the State of New York, affirms the following to be true under the penalties of perjury and says:

1. I am an Associate of Lazarus & Lazarus, P.C., attorneys for Defendants Johnny’s Signature, Inc., Johnny’s Signature Int’l, Inc. Deepak Sanjani, Jerry Lau and Double Top International, Inc. (hereinafter collectively referred to as the “Defendants”) in the above captioned matter (the “Action”), and as such, I am fully familiar with the facts and circumstances hereinafter stated.

2. I submit this affirmation in Opposition to Plaintiffs Fashion Group, LLC (“Fashion Group”) and Fungyun, Inc.’s (“Fungyun”) (hereinafter collectively referred to as “Plaintiffs”) motion for leave to amend (the “Motion for Leave”) for the reasons set forth in the accompanying Memorandum of Law.

3. On August 3, 2018, Plaintiffs’ counsel served a letter (the “Letter”), requesting

Defendants consent for the Plaintiff to file the Proposed Second Amended Complaint, which would add NYC Alliance Company LLC (the “New Proposed Plaintiff” or “NYC Alliance”) as a plaintiff in the Action. A copy of the Letter is annexed hereto as **Exhibit A**.

4. The Letter further set forth that “... *the addition of NYC Alliance would enable the removal of Fashion Group as a party*”. *Id.*

5. On August 17, 2018, Defendants replied to the Letter (the “Reply”) by declining to consent to the filing of the Proposed Second Amended Complaint and pointed out the following:

In addition to the fact that there is no differentiation as to the facts, claims or averments made by and amongst the collective Plaintiffs, it is contrary to our obligation to our Clients to allow "in" a Plaintiff (NYC Alliance) as a substitute for a party who never should have been a Plaintiff (Fashion Group).

Particularly egregious is the fact that the TRO entered by the Court was, apparently, based on the false premise, inter alia, that Fashion Group was in fact a "seller" of apparel goods. That the premise was false is evidenced by your acknowledgement that the insertion of NYC Allowance would "enable the removal of Fashion Group as a party".

A copy of the Reply is annexed hereto as **Exhibit B**.

6. On August 31, 2018, Defendants made a formal request for documents (“Defendants’ Document Requests”).

7. On November 19, 2018, Plaintiffs served Responses to Defendants’ Document Requests (“Plaintiffs’ Responses”). A copy of the Plaintiffs’ Responses is annexed hereto as **Exhibit C**.

8. On November 30, 2018, Plaintiffs produced 224 pages of documents starting with Bate Stamp No. 147 (“Plaintiffs’ Document Production”).

9. Based upon Plaintiffs' Document Production, Josh Gelder, Josh Warner, LuAnn D'Ascoli and Larry Weber are and/or were NYC Alliance employees prior to the Action being commenced. Copies of Plaintiffs' documents date stamped PL00248, PL00275, PL00285 and PL00323 are annexed hereto as **Exhibit D**.

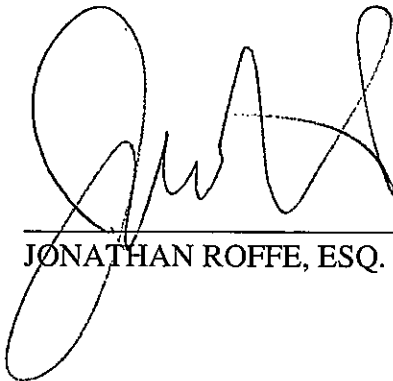
10. With respect to Defendants Document Requests No. 9 concerning NYC Alliance, Plaintiffs set forth the following response: "*Plaintiffs object ... as it ... seeks information that is not in Plaintiffs' custody or control as NYC Alliance is a third party that is not joined to this case.*" See Exhibit C.

11. Moreover, with respect to Defendants Document Requests No. 4-5, 7, 10, 18-25 and 27-28 concerning NYC Alliance, Plaintiffs set forth the following response: "*Plaintiffs object ... as it ... seeking document and ... information that is not in Plaintiffs' custody or control*". See Exhibit C.

12. Moreover, with respect to Defendants Document Requests No. 12-13 and 15-16 concerning NYC Alliance alleged employees' Josh Gelder, Josh Warner, LuAnn D'Ascoli and Larry Weber, Plaintiffs set forth the following response: "*Plaintiffs object ... as it ... seeking document and ... information that is not in Plaintiffs' custody or control.*" See Exhibit C.

13. On March 21, 2018, NYC Alliance emailed retailers Ross Stores and Burlington to inform them that they were intending to file a lawsuit against the Defendants. A copy of documents date stamped PL00346-PL00349 are annexed hereto as **Exhibit E**.

Dated: December 27, 2018  
New York, New York

  
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JONATHAN ROFFE, ESQ.